

**CITY OF RINGGOLD
STATE OF GEORGIA**

ORDINANCE NO.: 2018 - _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF RINGGOLD, GEORGIA BY AMENDING CHAPTER 62 CAPTIONED “TAXATION” BY STRIKING, DELETING AND REPEALING ARTICLE VII CAPTIONED “HOTEL-MOTEL EXCISE TAX” IN ITS ENTIRETY AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE VII CAPTIONED “HOTEL-MOTEL EXCISE TAX” FOR AMONG OTHER PURPOSES TO IMPLEMENT TITLE 48, CHAPTER 13, ARTICLE 3, SECTION 51(b)(2) OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR ADOPTION AND EFFECTIVE DATE, AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of the City of Ringgold, Georgia is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, welfare, and aesthetics of the citizens of the City of Ringgold, Georgia; and

WHEREAS, the duly elected governing authority of the City of Ringgold, Georgia is the Mayor and Council thereof; and

WHEREAS, HB1026 of the 2017-2018 Regular Session of the Georgia General Assembly authorizes imposition of an excise tax on rooms, lodging and accommodations of up to 8% by the City of Ringgold, Georgia pursuant to O.C.G.A. §48-13-51(b) for the purposes stated in O.C.G.A. §48-13-51.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF RINGGOLD, GEORGIA AS FOLLOWS:

Section 1.

The Code of Ordinances of the City of Ringgold, Georgia is hereby amended by amending Chapter 62 captioned “Taxation” by striking, deleting and repealing Article VII captioned “Hotel-Motel Excise Tax” and substituting in lieu thereof a new Article VII captioned “Hotel-Motel Excise Tax” which shall read as follows:

ARTICLE VII. HOTEL-MOTEL EXCISE TAX

Sec. 62-306. - Name.

The name of this ordinance shall be the City of Ringgold Hotel-Motel Excise Tax Ordinance.

Sec. 62-307. - Authorization.

This ordinance is enacted under the authorization of HB1026 of the 2017-2018 Regular Session of the Georgia General Assembly, pursuant to O.C.G.A. § 48-13-51(b).

Sec. 62-308. - Intent and purpose.

- (a) The intent of this ordinance is to levy an excise tax rooms, lodging and accommodations to provide additional funding for the promotion of tourism, conventions and trade show in the city.
- (b) The purpose of this ordinance is to enact an excise tax upon the furnishing for value to the public of any room or rooms, lodgings or accommodations furnished by any person or legal entity licensed by or required to pay business or occupational taxes to, the city for operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, rental cabin or any other place in which rooms, lodgings, or accommodations are regularly furnished for value.

Sec. 62-309. - Definitions. The following words, terms and phrases shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

City means the incorporated territory of Ringgold, Georgia.

City manager means the duly appointed city manager of the city or his designee.

Destination Marketing Organization means a private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visit or assistance and support as needed.

Due date means the 20th day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability means the lodging provider's prospective tax liability based upon the average monthly tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the hotel.

Folio means primary documentation produced by a hotel that demonstrates interaction between the lodging provider and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the date(s) of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax, and the method(s) of payment.

Guest room means accommodations occupied, or intended, arranged, or designed for transient occupancy, by one or more occupants for the purpose of living quarters or residential use.

Hotel means any hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation.

Lodging provider means any person operating a hotel in the city including, but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, lender in possession, licensee or any other person operating such hotel; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.

Monthly period means the calendar months of any year.

Occupancy means the use or possession, or the right to the use or possession of any guest room in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the guest room.

Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any guest room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Permanent resident means any occupant who, as of a given date, has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for not less than 30 continuous days next preceding such date.

Person means any individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number; excepting the United States, the State of Georgia and any instrumentality of either thereof upon which the city is without power to impose the tax.

Private Sector Non-Profit Organization means a chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for requires expenditures with such private group.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the lodging provider to the occupant, without any deduction therefrom whatsoever.

State Authority mean an authority created by state law which serves a state-wide function, including, but not limited to, the Georgia Agricultural Exposition Authority, Georgia Aviation Authority, Georgia Building Authority, Georgia Development Authority, Georgia Environmental Finance Authority, Jekyll Island Authority, Lake Allatoona Preservation Authority, Georgia Medical Center Authority, Georgia Ports Authority, Georgia Regional

Transportation Authority, State Road and Tollway Authority, Sports Hall of Fame Authority, Georgia Technology Authority, and Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional commissions and any organizational entities they may create, or local water and sewer authorities

Tax means the tax on occupants imposed by this article, as provided for by O.C.G.A. §48-13-51(b)(2).

Tax Administrator means the City Manager.

Tourism Product Development means the expenditure of funds for the creation or expansion of physical attractions that are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include: (i) lodging for the public for no longer than 30 consecutive days to the same customer; (ii) overnight or short-term sites for recreational vehicles, trailers, campers, or tents; (iii) meeting, convention, exhibit, and public assembly facilities; (iv) sports stadiums, arenas, and complexes; (v) golf courses associated with a resort development that are open to the general public on a contract or fee basis; (vi) racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car racetracks or speedways; (vii) amusement centers, amusement parks, theme parks, or amusement piers; (viii) hunting preserves, trapping preserves, or fishing preserves or lakes; (ix) visitor information and welcome centers; (x) wayfinding signage; (xi) permanent, non-migrating carnivals or fairs; (xii) airplanes, helicopters, buses, vans, or boats for excursions or sightseeing; (xiii) boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows, natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for amusement, aerial tramways, rodeos, water slides, or wave pools; (xiv) museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens; (xv) parks, trails, and other recreational facilities; or (xvi) performing arts facilities.

Sec. 62-310. - Tax Rate.

There is hereby set and levied on the occupant of a guest room of any hotel/motel/cabin/residence/lodge located within the special district a tax in the amount of six percent (6%) of the gross rent for such occupancy.

Sec. 62-311. - Exemptions.

In accordance with O.C.G.A. § 48-13-51(h), the tax imposed by this ordinance shall not apply to (a) charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty; (b) the use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge; (c) any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local

government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or (d) charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

Sec. 62-312. - Use of Revenue.

- (a) Pursuant to O.C.G.A. § 48 -13- 51(b)(5)(A), an amount equal to not less than 50 percent of the total amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent shall be expended for promoting tourism, conventions, and trade shows by the destination marketing organization, as defined in Sec. 62-309 of this ordinance, designated by the governing body of the city; and
- (b) Pursuant to O.C.G.A. § 48 -13- 51(b)(5)(B), the remaining amount of taxes collected that exceed the amount of taxes that would be collected at the rate of 5 percent which are not otherwise expended under Sec. 62-312(a) of this ordinance shall be expended for tourism product development, as defined in Sec. 62-309 of this ordinance; and
- (c) Pursuant to O.C.G.A. § 48 -13- 51(a)(3), the amount of taxes that would be collected at the rate of 5 percent, as referenced in Sec. 62-312 (a) and (b) of this ordinance, an amount equal to the amount by which the total taxes collected under this code section exceed the taxes which would be collected at a rate of 3 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) supporting a facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes; (C) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes, if a written agreement to provide such support was in effect on January 1, 1987, and if such facility is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility owned or operated by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state funds; (E) supporting a facility owned by a local government or local authority for convention and trade show purposes and any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of Title 48 of the Georgia Code, as amended and if such facility was substantially completed and in operation prior to December 31, 1993; or; or (F) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purposes of

subparagraphs (C) and (D) of O.C.G.A. § 48 -13- 51(a)(3) may be so expended in any otherwise lawful manner.

Sec. 62-313. - Registration of lodging provider; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as a lodging provider in the city shall immediately register with the city manager on a form provided by said official. Persons engaged in such business must so register not later than 30 days after the date that this article becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the tax as prescribed by the city manager. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in case of ownership by a corporation, by an officer. The city manager shall, after such registration, issue without charge a certificate of authority to each lodging provider to collect the tax from the occupant. A separate registration shall be required for each place of business of a lodging provider. Each certificate shall state the name and location of the business to which it is applicable.

Sec. 62-314. - Collection of tax by lodging provider.

Every lodging provider furnishing guest rooms in a hotel in the city shall collect a tax of six percent on the amount of rent from the occupant unless an exemption is provided under Sec. 62-311. The lodging provider shall provide a receipt to each occupant, which receipt shall reflect both the amount of rent and the amounts of this and other tax applicable. This tax shall be due from the occupant, and shall be collected by the lodging provider at the same time that the rent is collected. The lodging provider shall be liable to the city for the full amount received or collected as tax, whether collected appropriately or inappropriately; and for any amount of tax that should have been collected, but was not. Any person who receives or collects the tax or any consideration represented to be the tax from another person holds the amount so collected in trust for the benefit of the city and is liable to the city for the full amount collected, plus penalty and interest. An individual who controls or supervises the collection of the tax from another person, or an individual who controls the accounting for or remittance of the tax, and who willfully fails to remit or cause to be remitted the tax is liable as a responsible individual for an amount equal to the tax not remitted or caused to be remitted, plus penalty and interest. The dissolution of a corporation, partnership or other business or fraternal association does not affect a responsible individual's liability under this subsection. Furthermore, the liability imposed by this subsection shall be in addition to any other penalty provided by law.

Sec. 62-315. - Determination generally; returns; payments.

(a) *Due date of taxes.* All amounts of such tax shall be due and payable to the city manager monthly on or before the 20th day of the month next succeeding the respective monthly period. The tax shall become delinquent for any monthly period after the 20th day of each succeeding month during which it remains unpaid.

(b) *Penalty and interest for failure to pay tax by due date.* A lodging provider who fails to make any return or to pay the amount of tax as prescribed, shall be assessed a specific penalty to be added to the tax in the amount of five percent or \$5.00, whichever is greater, if the failure is for one month or less; and an additional five percent or \$5.00, whichever is greater, for each additional month or fraction thereof in which such failure shall continue; provided, however, that the aggregate penalty for any single violation shall not exceed 25 percent or \$25.00, whichever is greater. Delinquent amounts shall bear interest monthly, or fraction thereof, until paid at the rate set forth in O.C.G.A. § 48-2-40.

(c) *Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements.* If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the governing authority of the city by affidavit attached to the return, and remittance is made within ten days of the due date, such return may be accepted exclusive of penalty and interest.

(d) *Waiving of penalty and interest; authority.* O.C.G.A. § 48-2-41, relating to the authority to waive interest, and O.C.G.A. § 48-2-43, relating to the authority to waive penalty, shall apply; provided, however, that the governing authority shall stand in lieu of the Georgia Commissioner of Revenue, and the city shall stand in lieu of the state.

(e) *Penalty for fraud.* In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the city of any tax due, a penalty of 50 percent shall be assessed.

(f) *Return; remittance; time of filing; lodging providers required to file; contents.* On or before the 20th day of the month succeeding each monthly period, a return for the preceding monthly period together with appropriate remittance shall be filed with the city manager. The return shall report the gross rent, taxable rent, exempt rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the city manager. However, if the estimated tax liability for any monthly period shall exceed \$2,500.00 for a lodging provider who, in the prior fiscal year remitted tax greater than \$2,500.00 in any three consecutive months, such lodging provider shall file an estimated return and remit not less than 50 percent of the estimated tax liability for the monthly period by the 20th day of that same monthly period. The amount of tax so remitted shall be credited against the amount to be due with the regular return for the monthly period to be filed on the 20th day of the succeeding month.

(g) *Extension of time of filing; authority; requirements; remittance; penalty and interest.* The governing authority of the city may, for good cause, extend the time for making returns for not longer than 30 days. No extension shall be valid unless granted in writing upon written application of the lodging provider. Such grant may not be applicable for longer period than 12 consecutive months. A lodging provider granted an extension shall remit tax equaling not less than 100 percent of the tax paid for the corresponding period of the prior fiscal year; such remittance to be made on or before the date the tax would otherwise come due without the grant of extension. No penalty or interest shall be charged during the first ten days of the extension period. Thereafter, interest shall be collected on the unpaid balance at the rate set forth in O.C.G.A. § 48-2-40.

(h) *Collection fee allowed lodging providers.* Lodging providers collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, but only if the amount due was not delinquent at the time of payment.

Sec. 62-316. - Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city manager is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any lodging provider, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by Sec. 62-313.
- (c) *Notice of determination; service of.* The city manager shall give to the lodging provider written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the lodging provider at his address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.
- (d) *Time within which notice of deficiency determination to be mailed.* Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.
- (e) *Appeal or protest of deficiency determination.* The procedure for contesting a deficiency determination shall be as provided by O.C.G.A. § 48-5-380.

Sec. 62-317. - Determination if no return made.

- (a) *Estimate of gross receipts.* If any lodging provider fails to make a return, the city manager shall make an estimate of the amount of the gross receipts of the lodging provider, or as the case may be, of the amount of total rentals in the city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the lodging provider failed to make the return and shall be based upon any information which is or may come into the possession of the city manager. Written notice shall be given in the manner prescribed in Sec. 62-315(c).
- (b) *Penalty and interest for failure to pay tax.* Penalty and interest shall be assessed upon the amount of any determination, as provided by Sec. 62-313.

Sec. 62-318. - Collection of tax by city.

- (a) *Action for delinquent tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city manager may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
- (b) *Lodging provider selling or quitting business.* If any lodging provider liable for any amount under this article sells out his business or quits his business, he shall make a final return and remittance within 15 days after the date of selling or quitting the business.

(c) *Duty of successors or assignees of lodging provider to withhold tax from purchase money.* If any lodging provider liable for any amount of tax, interest or penalty under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city manager either a receipt reflecting full payment or a certificate stating that no amount is due.

(d) *Liability for failure to withhold.* If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(e) *Credit for tax, penalty or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city, it may be refunded by the governing authority. If the lodging provider or person determines that he has overpaid or paid more than once, which fact has not been determined by the city manager, such person shall have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the governing authority at which the claim and any other information available will be considered. The governing authority shall approve or disapprove the claim, and notify the claimant of its action.

Sec. 62-319. - Administration of ordinance; record keeping.

(a) *Authority of city manager.* The city manager shall administer and enforce the provisions of this article for the collection of the tax.

(b) *Records required from lodging providers, etc.; form.* Every lodging provider renting guest rooms in the city shall preserve, for a minimum of three years, all folios, receipts, certificates of exemption and such other documents as the city manager may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the city.

(c) *Examination of records; audits.* The city manager or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any lodging provider renting guest rooms and any lodging provider liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the lodging provider, to ascertain and determine the amount required to be paid. Such examination shall be conducted at the place of lodging provision, unless the city manager shall stipulate another place within the city.

(d) *Authority to require reports; contents.* In administration of the provisions of this article, the city manager may require the filing of reports by any person or class of persons having in their possession or custody information relating to the rental of guest rooms which are subject to the tax. The reports shall be filed with the city manager when required by said official, and shall set forth the rental charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city manager may prescribe.

Sec. 62-320. - Violations.

Any lodging provider who fails; neglects or refuses to collect the tax as provided by section 62-308 shall be deemed guilty of a misdemeanor and, upon conviction thereof,

shall be punished by a fine of not more than \$100.00, or confinement for a term not to exceed three months, or both fine and confinement. Any lodging provider who fails or refuses to make any return as provided by section 62-311, to keep adequate records or to open them for inspection by the city, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00, or confinement for a term not to exceed three months, or both. Any lodging provider who makes a false or fraudulent return with intent to evade the tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100.00, nor more than \$300.00, or confinement for a term not to exceed three months, or both. Each and every day during any portion of which any violation is committed, continued or permitted, shall constitute a separate offense and shall be punished accordingly.

Section 2.

All ordinances or parts of ordinances in conflict with this ordinance are repealed as of the effective date of this ordinance.

Section 3.

It is hereby declared to be the intention of the Mayor and Council of the City of Ringgold that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

Section 4.

The adoption date of this Ordinance shall be _____, 2018. The effective date of this Ordinance is _____, 2018.

SO ORDAINED, this _____ day of _____, 2018.

CITY OF RINGGOLD, GEORGIA

Nick Millwood, Mayor

ATTEST:

Nicki Lundeen, City Clerk